IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4785 of 1999

with

SPECIAL CIVIL APPLICATION No 5278 of 1999

with
SPECIAL CIVIL APPLICATION NO. 5281 OF 1999
WITH
SPECIAL CIVIL APPLICATION NO. 5283 OF 1999
WITH
SPECIAL CIVIL APPLICATION NO. 5280 OF 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PARMAR ALABHAI RAMABHAI

Versus

FOOD CONTROLLER

Appearance:
In SCA Nos. 4785 of 1999:
MR BN RAVAL for Petitioners
MR M.A.BUKHARI, AGP for Respondent No. 1, 2, 3, 4
In SCA Nos. 5280, 5283,5278 and 5281 of 199:
MR BP GUPTA for Petitioners
MR M.A.BUKHARI, AGP FOR RESPONDENTS

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 15/03/2000

ORAL JUDGEMENT

In all these petitions, a policy decision by way of notification, dated 19th June, 1999 issued by the Food and Civil Supplies Department for selling of kerosene is challenged.

The case of the petitioners-consumers was that they were not getting kerosene regularly and the policy adopted by the Government is arbitrary and unreasonable. It was also stated that they used to get kerosene from fair price shops but the said work was handed over to hawkers which created a number of difficulties . Before taking such decision and changing the policy, inconvenience of the customers has not been considered, nor any notice was issued nor opportunity of hearing was afforded, nor consumers were taken in confidence. In view of the fact that the petitioners were not in a position to make representation and the action deserves to be quashed and set aside being arbitrary and unreasonable, they have approached this Court. It was also stated that various representations were made but they were not considered and no reply was sent to them. It was,therefore, submitted that appropriate directions may be issued to the State Government.

After notice was issued, the respondents appeared and Deputy Controller of Food and Civil Supplies , Ahmedabad has filed an affidavit. Mr. Bukhari stated that affidavit was already tendered , but it is not available. A copy is,therefore, taken on record. In the affidavit, it was inter alia stated that Ahmedabad City was divided into 123 zones. Zonal offices are working under the Food Control Department and every month, Civil Supply Department of the State Government allots necessary quota of kerosene . According to the deponent, there are 41 agencies which receive kerosene directly from oil company as per the quota allotted by the Government. At present, there are four categories for distribution of kerosene: (i) fair price shop; (ii) kerosene retailers; (iii) limited quota kerosene licensed shops and (iv) hawkers. It was also stated that distribution was made to the hawkers so that such hawkers are available near fair price shops from where customers purchase other essential articles .

No doubt, the grievance of the petitioners is that in fact, hawkers are not available in the nearby vicinity of fair price shop which has caused inconvenience to the customers. If it is so, it is open to the consumers to draw attention of the authorities. So far as policy is

concerned, in the light of the affidavit , it cannot be said that the policy decision is either arbitrary or unreasonable. Moreover,such policy decisions are not subject to judicial review under Article 226 of the Constitution . True it is, that if the policy is arbitrary, irrational or violative of any provision of law, this Court can declare such policy to be ultra vires. But in the facts and circumstances of the case, it cannot be said that the policy adopted by the State Government vide notification, dated 19th June, 1999 can be termed as arbitrary, unreasonable or otherwise ultra vires.

For the foregoing reasons, I see no ground to interfere with the policy decision of the State Government. Petitions, therefore, deserve to be dismissed and are accordingly dismissed. Notice discharged. No order as to costs.

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parekh